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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/675,380

09/30/2003

Jeyhan Karaoguz

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EXAMINER

AHMED, SALMAN

ART UNIT

PAPER NUMBER

2476

MAIL DATE

DELIVERY MODE

10/30/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/675,380</p>	<p>Applicant(s) KARAOGUZ ET AL.</p>	
	<p>Examiner SALMAN AHMED</p>	<p>Art Unit 2476</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 October 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Salman Ahmed/
Primary Examiner, Art Unit 2476

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's arguments see pages 10-17 of the Remarks section, filed 10/8/2009, with respect to the rejections of the claims have been fully considered and are not persuasive.

In regards to claims 1, 11 and 21, Applicant argues that (see page 12) claim 1 recites, in relevant portion, the following: "each network connection on said first communication path ... has a corresponding redundant network connection on said second communication path" (also bolded in the above argument); The important feature here is that each of the network connections between the end points has the redundancy connection; Clearly, this is not disclosed in Rochberger.

However, Examiner respectfully disagrees with Applicant's assertion. Current claim language is broad and in view of the broadest reasonable interpretation of the claim language, Rochberger indeed teaches each network connection on first communication path (figures 1 or 2 or 3 or 10 or 11 or 12 or 15 or 16, path going through elements 16 and 18) between at least two end points (column 10 line 20, two end nodes, i.e., the source and destination nodes), has a corresponding redundant network connection (figures 1 or 2 or 3 or 10 or 11 or 12 or 15 or 16, path going through elements 24 and 26) on second communication path. Rochberger clearly teaches in abstract, column 4, lines 65-66, the method permits the construction of an ATM network which includes call path redundancy whereby if a node or link fails, another path meeting the requirements of the call (if one exists) will be used on an automatic basis. The alternative or redundant path is placed into service in such a way that the flow of data is substantially constant. The switching of the path occurs with almost no data loss and without the overhead time associated with Q.SAAL based detection and signaling. The method creates a second (redundant) path at the time the call is setup.

Applicant argues that (see page 13) none of the transit nodes 1-4 have redundancy network connections. Even though Rochberger discloses separate paths between the source node and the destination node, each of the paths passes through separate network nodes (nodes 1-2 and 3-4) and none of these nodes use redundancy connections.

However, Examiner respectfully disagrees with Applicant's assertion. The claim language states "each network connection on said first communication path ... has a corresponding redundant network connection on said second communication path". The claim language does not state transit nodes need to have redundancy network connections. Therefore, the claim language, as interpreted by the Examiner clearly shows each network connection on first communication path (figures 1 or 2 or 3 or 10 or 11 or 12 or 15 or 16, paths going through elements 16 and 18) between at least two end points (column 10 line 20, two end nodes, i.e., the source and destination nodes), has a corresponding redundant network connection (figures 1 or 2 or 3 or 10 or 11 or 12 or 15 or 16, path going through elements 24 and 26) on second communication path (clearly, figures 1 or 2 or 3 or 10 or 11 or 12 or 15 or 16 shows, paths between nodes 14 and 16, between nodes 16 and 18 and between nodes 18 and 20, have redundant network connections between nodes 14 and 24, between nodes 24 and 26 and between nodes 26 and 20 respectively. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Therefore, cited independent claims and their respective dependent claims stand rejected.